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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,037	01/12/2001	Mark William Hamersky	7914M	1859

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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CINCINNATI, OH 45224

EXAMINER

PARA, ANNETTE H

ART UNIT	PAPER NUMBER
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1661

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/760,037

Applicant(s)

HAMERSKY ET AL.

Examiner

Annette H. Para

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1661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-19 and 22-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-19 and 22-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

The amendment sent on June 16, 2003 has been entered.

Claim 19 is objected to because of the following informalities: incorrect spelling of the word wherein. Appropriate correction is required.

Claim Rejection - 35 U.S.C. 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The compounds of claim 1 cannot have the formula recited in claim 11.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2-6,12, 31-33,35-37, remain rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lonza Ltd. as previously stated (paper 7, page 2).

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Applicants' arguments filed on June 16, 2003 have been fully considered but they are not persuasive. Applicants argue that Lonza Ltd fails to teach the specific antimicrobials recited in claim 1; this does not apply to the claims, which do not depend on claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2,12-18, 31, and 34 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Lonza Ltd in view of Doi et al. and in view of Frossard et al. as previously stated (paper 7, page 3).

Applicants' arguments filed on June 16, 2003 have been fully considered but they are not persuasive. Applicants argue that Lonza Ltd in view of Doi and further in view Frossard fails to teach the specific antimicrobials recited in claim 1; this does not apply to the claims, which do not depend on claim 1.

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Claims 1, 7-9, 19, 31, 38-41 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Lonza Ltd in view of Law. as previously stated for claims 1, 10, 19-21, 31, 38-41 (paper 7, page 4).

Applicants' arguments filed on June 16, 2003 have been fully considered but they are not persuasive. Applicants argue that Lonza Ltd in view of Law fails to teach the specific antimicrobials recited in claim 1. The specific compounds of claim 1 are disclosed in Law, in column 1

Claims 22, 23, 25-30 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Lonza in view of Law as applied to claims 1, 19-21, 31, 38-41 above, and further in view of Longley and Frossard et al. as previously stated (paper 7, page 5).

Applicants' arguments filed on June 16, 2003 have been fully considered but they are not persuasive. Applicants argue that Lonza in view of Law in further view of Longely and Frossard fails to teach the antimicrobial now recited in amended claim 19. The precise forms of the subject antimicrobial are disclosed in Law, in column 3.

Claim 24 remains rejected under 35 U.S.C. 103(a) as being unpatentable over Lonza in view of Law, Longley and Frossard et al. as applied to claims 22, 23, 25-30 above, and further in view of Philosoph-Hadas et al. as previously stated (paper 7, page 5).

Applicants' arguments filed on June 16, 2003 have been fully considered but they are not persuasive. Applicants argue that Lonza in view of Law in further view of Longely and Frossard fails to teach the antimicrobial now recited in amended claim 19 from which claim 24 directly depends. The precise forms of the subject antimicrobial are disclosed in Law, in column 3.

Conclusion

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No claims are allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Amendments in a Revised Format

Applicants must submit amendments in a revised format. The revised amendment format have been adopted via a revision to 37 CFR 1.121. Compliance to the revision to 37 CFR 1.121 is mandatory by July of 2003. Complete details to the revised amendment format can be found on the Internet at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/revamdtprac.htm>

Future Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Annette H. Para whose telephone number is (703) 308-6327. The Examiner can normally be reached Monday through Thursday from 6:00 am to 4:30 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Bruce Campell, can be reached on (703) 308-4205. The fax numbers for the group are Before Final (703) 872-9306 and After Final (703) 872-9307.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Matrix Customer Service Center whose telephone number is (703) 872-9305.

A.H.P

A handwritten signature in black ink, reading "Bruce Campell". The signature is written in a cursive, flowing style.

**BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600**